GOVERNMENT OF INDIA
LAW AND JUSTICE
LOK SABHA

STARRED QUESTION NO:101
ANSWERED ON:03.03.2016
Judicial Impact Assessment
Jardosh Smt. Darshana Vikram

Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether any Task Force / Committee constituted to study "Judicial Impact Assessment" in the country;
(b) if so, the terms of reference and the composition of such Task Force;
(c) the major recommendations made by the Task Force; and
(d) the follow-up action taken thereon?

Answer

ANSWER

MINISTER OF LAW AND JUSTICE
(SHRI D. V. SADANANDA GOWDA)

(a) to (d): A Statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO PARTS (a) to (d) of LOK SABHA STARRED QUESTION NO. *101 FOR ANSWER ON 03rd March, 2016.

A Task Force on 'Judicial Impact Assessment' was constituted by the Government on the directions of the Supreme Court of India in the matter of Salem Advocates Bar Association versus Union of India.

The Composition of the Task Force was as follows:
1. Justice M. Jagannadha Rao (Retd.), former Judge of the Supreme Court and formerly Chairman, Law Commission of India. Chairman
2. Prof. (Dr.) N. R. Madhava Menon, former Director of the National Judicial Academy, Bhopal. Member
3. Prof. (Dr.) Mohan Gopal, Director of the National Judicial Academy, Bhopal. Member
4. Shri T.C.A. Anant, Member-Secretary of Indian Council of Social Science Research. Member
5. Dr. B. A. Agarwal, Additional Secretary in Legislative Department. Member
- Secretary

The Task Force was appointed with following Terms of Reference:

(i) to suggest the methodology to assess the likely impact of legislation on the courts and also an appropriate framework so that every Bill introduced in Parliament be accompanied by a Judicial Impact Assessment;
(ii) to suggest ways and means of preparation of Judicial Impact Assessment;
(iii) to make an assessment of financial requirements so that the Financial Memorandum attached to each Bill reflects the budgetary requirements for meeting the expenses of additional cases (civil and criminal) which may arise in case the Bill is passed by the Legislature;
(iv) to recommend the content for initiating a training program for laying down the foundation for the expertise to prepare Judicial Impact Assessment; and
(v) to suggest any other measures for assessing the increase of the work load on the courts on passing of a new legislation.

The Task Force submitted its report on 15th June, 2008, which was placed before the Hon'ble Supreme Court of India.

The Task Force has, inter-alia, recommended that 'Judicial Impact Assessment' must be made on scientific basis for the purpose of estimating the extra case-load which any new Bill or Legislation may add to the Judicial System. The expenditure required for adjudication of cases be estimated by the Government and adequate budgetary provisions be made for the purpose. Such impact assessment needs to be made in respect of Bills which are introduced in Parliament as well as Bills introduced in the State legislatures. The Government of India, in view of Entry-11A of the Concurrent List and Article 247 of Constitution of India and the general scheme of the Constitution, must have such prior assessments made and make necessary financial provision, at the stage of the enactment / introduction of Bills, for implementation of Central Laws in respect of subjects in the Union List or the Concurrent List of the Seventh Schedule of the Constitution of India. The State Governments should not be made to bear the financial burden of implementing Central laws passed under the Union List or Concurrent List by the Courts established by Governments in the States. The State Governments should be required to make adequate provision for meeting the expenditure of the Courts, at the stage of the Bills, for the implementation of the Laws made by the State Legislature with respect to subjects in the State List and Concurrent List.

The views of the State Governments and High Courts were solicited on the Report of the Task Force. Based on the feedback

received from State Governments and High Courts, the matter regarding implementation of the Report of the Task Force was deliberated upon in the meeting of the Advisory Council of National Mission for Justice Delivery and Legal Reforms held in November, 2012. It was, inter-alia, decided that the methodologies of the Judicial Impact Assessment as recommended by the Task Force may be gone into further by a Committee of Experts to assess the practicability of their implementation in the given circumstances. During the Conference of Chief Ministers and Chief Justices held in New Delhi in April, 2013, this matter was included in the Action Taken Report. It was mentioned that expert opinions received so far have expressed practical difficulties in making assessment of the impact of legislation on the workload of judiciary. The practicability of the idea needs to be established before it is implemented. Accordingly, a Committee of Experts was constituted in September, 2013 to examine the issue of implementability of methodologies of Judicial Impact Assessment and suggest further action in this regard. The Committee in its report submitted on 9th January, 2015, inter-alia, concluded that Judicial Impact Assessment was neither feasible nor desirable as a method of proper budgetary planning and allocation of funds for the judiciary. It suggested an alternative approach for budgetary planning for the judiciary involving the generation of periodic Access to Justice Reports to examine the needs of the judiciary in the light of their constitutional obligation to provide fair, quick and speedy justice.

The above report has been circulated to the State Governments and the High Courts. It is pertinent to mention here that on account of the recommendations of the Fourteenth Finance Commission, there has been a substantial increase in devolution of funds to the State Governments. The Central Government has, therefore, written to the State Governments to utilize the additional fiscal space available to them for enhancing the investment on judiciary in the States. Further, during the Joint Conference of Chief Ministers of States and Chief Justices of High Courts convened on 5th April, 2015, it was, inter-alia, resolved that Chief Justices and Chief Ministers shall institute a mechanism for regular communication among themselves to resolve issues particularly those relating to infrastructure and manpower needs and facilities for the judiciary.